



**PETROLEUM STORAGE TANK INSURANCE FUND
YEAR ENDED JUNE 30, 2000**

**From The Office Of State Auditor
Claire McCaskill**

**Report No. 2001-35
April 19, 2001
www.auditor.state.mo.us**

AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

April 2001

The following problems were discovered as a result of an audit conducted by our office of the Petroleum Storage Tank Insurance Fund.

The Petroleum Storage Tank Insurance Fund had a negative unreserved fund balance of over \$40 million as of June 30, 2000. Financial projections indicate revenues will not be sufficient to cover clean up costs at all contaminated sites through December 31, 2003, which is the expiration date of the fund.

Although the fund had a cash balance exceeding \$46 million at June 30, 2000, the fund also had claim reserves exceeding \$85 million. Financial projections indicate cleanup costs will significantly exceed revenues due to known locations currently undergoing cleanup and potential new cleanup sites.

To ensure the greatest benefit to the state of Missouri regarding the cleanup of contaminated sites, the auditor recommends the Board consider the following alternatives:

- Implement a risk-based approach for cleaning up contaminated sites
- Seek legislation to increase the transport load fee
- Seek legislation to increase the insurance participation fees
- Increase the deductible amount
- Reduce the liability limit of \$1,000,000
- Require tanks that meet the 1998 tank requirements to obtain insurance through insurance carriers

The program currently has a deductible (the owner's share of cleanup costs) of only \$10,000 and the coverage limit for each incident is \$1 million. The audit said the deductible may be too low and the coverage limit may be too high. The Board could potentially save \$15.5 million if it would increase the deductible. In addition, the Board could have saved \$6.8 million on claims incurred if the coverage limit had been \$350,000.

The Board did not present an annual report on the availability and affordability of private insurance to the General Assembly as required by law.

(over)

YELLOW SHEET

The Board did not conduct timely review of claim activity to ensure claim files and related reserves are accurate and up to date.

The purpose of the fund is to pay for the cleanup of contamination caused by petroleum spills. There are various administrative costs involved in carrying out these duties. Administrative costs of nearly 20 percent or more may be excessive when compared with other states that have similar programs.

PETROLEUM STORAGE TANK INSURANCE FUND

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FINANCIAL SECTION

State Auditor's Reports



CLAIRE C. McCASKILL
Missouri State Auditor

**INDEPENDENT AUDITOR'S REPORT ON
THE FINANCIAL STATEMENTS**

Honorable Bob Holden, Governor
and
Members of the Petroleum Storage Tank
Insurance Fund Board
and
Carol Eighmey, Executive Director
Jefferson City, MO 65102

We have audited the accompanying financial statements of the Petroleum Storage Tank Insurance Fund as of and for the year ended June 30, 2000, as identified in the table of contents. These financial statements are the responsibility of the board's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to in the first paragraph present fairly, in all material respects, the financial position of the Petroleum Storage Tank Insurance Fund as of June 30, 2000, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we also have issued our report dated October 13, 2000, on our consideration of the board's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

The accompanying Statistical Section is presented for informational purposes. This information was obtained from the board's management and was not subjected to the auditing procedures applied in the audit of the financial statements referred to above.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" written in a larger, more prominent script than the last name "McCaskill".

Claire McCaskill
State Auditor

October 13, 2000 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Kenneth W. Kuster, CPA
Audit Manager:	Randy Doerhoff, CPA
In-Charge Auditor:	Randy Gordon, CPA
Audit Staff:	Robyn Vogt
	Nuku Aggor



CLAIRE C. McCASKILL
Missouri State Auditor

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE
AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

Honorable Bob Holden, Governor
and
Members of the Petroleum Storage Tank
Insurance Fund Board
and
Carol Eighmey, Executive Director
Jefferson City, MO 65102

We have audited the financial statements of the Petroleum Storage Tank Insurance Fund as of and for the year ended June 30, 2000, and have issued our report thereon dated October 13, 2000. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the financial statements of the Petroleum Storage Tank Insurance Fund are free of material misstatement, we performed tests of the board's compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance that is required to be reported under *Government Auditing Standards*, and which is described in the accompanying Management Advisory Report as finding number 1.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements of the Petroleum Storage Tank Insurance Fund, we considered the board's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that

we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the board's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. Reportable conditions are described in the accompanying Management Advisory Report as finding number 2.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, of the reportable conditions described above, we consider finding number 2 to be a material weakness. We also noted another matter involving the internal control over financial reporting which is described in the accompanying Management Advisory Report.

This report is intended for the information of the management of the Petroleum Storage Tank Insurance Fund and other applicable government officials. However, this report is a matter of public record and its distribution is not limited.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" and last name "McCaskill" clearly distinguishable.

Claire McCaskill
State Auditor

October 13, 2000 (fieldwork completion date)

Financial Statements

Exhibit A

PETROLEUM STORAGE TANK INSURANCE FUND
BALANCE SHEET
JUNE 30, 2000

ASSETS

Cash and investments	\$ 46,090,200
Accounts receivable	750
Fixed assets	318,861
Total Assets	<u>\$ 46,409,811</u>

LIABILITIES AND FUND EQUITY

Liabilities:

Accounts payable	\$ 365,320
Claims payable	321,410
Refunds payable	2,300
Claims reserve - insurance	22,234,202
Claims reserve - remedial	63,483,706
Total Liabilities	<u>86,406,938</u>

Fund Equity:

Investment in fixed assets	318,861
Fund balance -	
Reserve for encumbrances	17,584
Unreserved	(40,333,572)
Total Fund Equity	<u>(39,997,127)</u>
Total Liabilities and Fund Equity	<u>\$ 46,409,811</u>

The accompanying Notes to the Financial Statements are an integral part of this statement.

Exhibit B

PETROLEUM STORAGE TANK INSURANCE FUND
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND EQUITY
YEAR ENDED JUNE 30, 2000

REVENUES

Transport load fees	\$ 14,038,512
Participation (insurance) fees	1,169,882
Cost recovery	5,386
Interest income	2,993,556
Other	4,761
Total Revenues	<u>18,212,097</u>

EXPENDITURES

Claims expense	34,487,478
Third party administrator	2,277,106
Department of Natural Resources	2,010,587
Board of Trustees	161,080
Department of Revenue	28,363
Attorney General's Office	26,748
Consulting expenses	47,452
Interest expense on refund	24,110
Hancock refund	435,909
Other	11,289
Total Expenditures	<u>39,510,122</u>

REVENUE OVER (UNDER) EXPENDITURES (21,298,025)

OTHER FINANCING USES

Disposal of fixed assets	<u>(45,254)</u>
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REVENUE OVER (UNDER) EXPENDITURES

AND OTHER FINANCING USES (21,343,279)

FUND EQUITY, JULY 1 (18,653,848)

FUND EQUITY, JUNE 30 (39,997,127)

The accompanying Notes to the Financial Statements are an integral part of this statement.

Exhibit C

PETROLEUM STORAGE TANK INSURANCE FUND
STATEMENT OF APPROPRIATIONS AND EXPENDITURES
YEAR ENDED JUNE 30, 2000

	Appropriations	Expenditures	Lapsed Balances
Department of Revenue:			
Division of Taxation - Personal Service	\$ 20,957	20,957	0
Division of Taxation - Expense and Equipment	1,110	1,068	42
Department of Natural Resources:			
Division of Environmental Quality - Personal Service	1,092,240	1,092,190	50
Division of Environmental Quality - Expense and Equipment	311,009	131,543	179,466
Division of Environmental Quality - Personal Service	121,360	0	121,360
Division of Geology and Land Surveys - Personal Service	33,074	18,819	14,255
Division of Geology and Land Surveys - Expense and Equipment	6,400	3,040	3,360
Agency Wide Operations	200	0	200
Refund Accounts	359,214	300,537	58,677
Leasing	122,926	96,883	26,043
Petroleum Storage Tank Insurance Fund Board:			
Personal Service	113,696	101,820	11,876
Expense and Equipment	59,300	27,339	31,961
Claims	27,128,326	24,992,348	2,135,978
Attorney General - Personal Service	21,000	20,410	590
Total Petroleum Storage Tank Insurance Fund	<u>\$ 29,390,812</u>	<u>26,806,954</u>	<u>2,583,858</u>

The accompanying Notes to the Financial Statements are an integral part of this statement.

Notes to the Financial Statements

PETROLEUM STORAGE TANK INSURANCE FUND
NOTES TO THE FINANCIAL STATEMENTS

1. Summary of Significant Accounting Policies

A. Reporting Entity and Basis of Presentation

The Petroleum Storage Tank Insurance Fund, presented in Exhibits A through B, is a separate accounting entity, recording all assets, liabilities, equities, revenues, and expenses related to the fund's activities.

Expenses presented for the fund or any program may not reflect the total cost of the related activity. Other direct and indirect costs provided by the board and other state agencies are not allocated to the fund or applicable program.

Appropriations, presented in Exhibit C, are not separate accounting entities. They do not record the assets, liabilities, and equities of the related funds but are used only to account for and control the fund's expenditures from amounts appropriated by the General Assembly.

Expenditures presented for each appropriation may not reflect the total cost of the related activity. Other direct and indirect costs provided by the board and other state agencies are not allocated to the applicable fund or program.

B. Basis of Accounting

The financial statements for the Petroleum Storage Tank Insurance Fund, Exhibits A through B, are presented on the accrual basis of accounting which recognizes revenues when available and measurable and expenses when the related liability is incurred. Claim reserves liabilities and the related expenses are recognized when the board becomes aware of contamination at a storage tank site and estimates the costs to clean up the contamination.

The Statement of Appropriations and Expenditures, Exhibit C, is presented on the state's legal budgetary basis of accounting which recognizes expenditures on the encumbrance method. Expenditures include amounts payable or encumbered at June 30 and paid during the lapse period, which ends August 31 for regular and capital improvement appropriations. The authority to expend appropriations ends with the close of the lapse period. However, the General Assembly may authorize reappropriation of the unexpended balances of capital improvement appropriations for the following year. The General Assembly also may authorize biennial capital improvement appropriations, for which the unexpended balances at June 30 of the first year of the two-year period are reappropriated for expenditure during the second year.

C. Fiscal Authority and Responsibility

The board administers transactions in the fund listed below. The state treasurer as fund custodian and the Office of Administration provide administrative control over fund resources within the authority prescribed by the General Assembly.

Petroleum Storage Tank Insurance Fund: Established by Section 319.129, RSMo 2000, to provide financial responsibility to owners and operators of petroleum storage tanks. The purpose of this fund is to provide insurance coverage for storage tank owners for the expenses of cleaning up a leak or spill, as well as third-party property damage or bodily injury resulting from leaks or spills. In addition, the fund pays for the expenses to clean up sites where petroleum storage tanks have been closed if these sites meet certain criteria. Any monies remaining in the fund are perpetually maintained for the purposes of the fund.

D. Employee Fringe Benefits

In addition to the social security system, employees are covered by the Missouri State Employees' Retirement System (MOSERS) (a noncontributory plan) and may participate in the state's health care, optional life insurance, deferred compensation, and cafeteria plans. The optional life insurance and cafeteria plans involve only employee contributions or payroll reductions. Also, the deferred compensation plan involves employee payroll deferrals and a monthly state matching contribution for each participating employee.

The state's required contributions for employee fringe benefits are paid from the same funds as the related payrolls. Those contributions are for MOSERS (retirement, basic life insurance, and long-term disability benefits); social security and medicare taxes; health care premiums; and the deferred compensation plan match. Employee fringe benefits are included in expenditures at Exhibit B.

Transfers related to salaries are not appropriated by agency and thus are not presented in the financial statement at Exhibit C.

2. Cash and Investments

The balance of the Petroleum Storage Tank Insurance Fund is pooled with other state funds and invested by the state treasurer.

3. Reconciliation of Expenditures to Appropriated Expenditures

Expenditures on Exhibit B reconcile to appropriated expenditures on Exhibit C as follows:

	Petroleum Storage Tank Insurance Fund
	Year Ended June 30, 2000
Expenditures per exhibit B	\$ 39,510,122
Employee fringe benefits	(386,794)
Hancock refund transfers	(435,909)
Expense and equipment transfers	(418,745)
Transport load fee refunds	276,127
Purchase of fixed assets	1,523
Increase in claim reserve - insurance	(7,189,895)
Increase in claim reserve - remedial	(4,549,475)
Expenditures per exhibit C	\$ <u>26,806,954</u>

4. Fund Deficit

At June 30, 2000, a fund equity deficit of \$40,333,572 existed primarily due to claim reserve liabilities exceeding available resources to pay for the claims. Claim reserve liabilities are the estimated costs to clean up known contaminated sites. The fund's expiration date is December 31, 2003, and existing revenue sources may be insufficient to clean up all known contaminated sites.

MANAGEMENT ADVISORY REPORT SECTION

Management Advisory Report -
State Auditor's Findings

PETROLEUM STORAGE TANK INSURANCE FUND
SUMMARY OF FINDINGS

1. Financial Condition (pages 18-23)

As of June 30, 2000, the Petroleum Storage Tank Insurance Fund (PSTIF) had a negative unreserved fund equity balance of over \$40 million and financial projections indicate revenues will not be sufficient to cover cleanup costs at all contaminated sites.

2. Claim Reserves (pages 23-25)

Claim reserves are not reviewed and evaluated in a timely manner.

3. Administrative Costs (pages 25-26)

Administrative costs of nearly 20 percent or more may be excessive.

PETROLEUM STORAGE TANK INSURANCE FUND
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

We have audited the financial statements of the Petroleum Storage Tank Insurance Fund as of and for the year ended June 30, 2000, and have issued our report thereon dated October 13, 2000.

The following Management Advisory Report presents our findings arising from our audit of the board's financial statements. During our audit, we also identified certain management practices which we believe could be improved. Our audit was not designed to be a detailed study of every system, procedure, and transaction. Accordingly, the findings presented in the following report should not be considered as all-inclusive of areas where improvements may be needed.

1.	Financial Condition
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The Petroleum Storage Tank Insurance Fund (PSTIF) had a negative unreserved fund balance of over \$40 million as of June 30, 2000. Financial projections indicate revenues will not be sufficient to cover clean up costs at all contaminated sites through December 31, 2003, which is the expiration date of the fund.

Although the PSTIF had a cash balance exceeding \$46 million at June 30, 2000, the PSTIF also had claim reserves exceeding \$85 million. Claim reserves are an estimate of costs for the cleanup of known contamination caused by petroleum releases from underground and aboveground storage tanks. This estimate does not consider unknown contaminated sites or any future petroleum leaks or spills.

The PSTIF Board of Trustees routinely prepares financial projections to monitor the financial status of the fund. The financial projections indicate cleanup costs will significantly exceed revenues due to known locations currently undergoing cleanup and potential new cleanup sites. The projection considered growth in insurance claims (claims by tank owners who are active participants in the insurance program) and remedial claims (claims relating to the cleanup of older out-of-service tank sites).

Based on the financial projections, the Board decided not to pay for the cleanup of any new remedial claims unless monies became available. The Board wanted to ensure financial resources were adequate to pay for the cleanup of current remedial claims and insurance claims. As of June 30, 2000, new remedial claims totaling over \$2.2 million were placed on a pending list and will be paid if sufficient financial resources are available.

To ensure the greatest benefit to the state of Missouri regarding the cleanup of contaminated sites, the Board should consider the following alternatives:

- **Implement a risk-based approach for cleaning up contaminated sites**

A risk-based approach requires sites that pose threats to human health and the environment to be thoroughly cleaned up, while allowing sites that pose little or no risk to receive lesser degrees of cleanup. Recognizing that states had limited monies to cleanup all contamination, the federal Environmental Protection Agency (EPA) has encouraged a risk-based approach since 1995. The American Society for Testing and Materials developed a risk-based corrective action model, which the state can use to assist in the implementation of a risk-based approach. In addition, the EPA will provide advice and training on the use of a risk-based approach. The goal of a risk-based approach is to evaluate the health risks of a contaminated site instead of automatically cleaning up all contamination. Generally, no-risk leak sites are not cleaned up, low or medium risk sites are monitored, and high risk leak sites are cleaned up to reasonable standards.

Several other states have adopted a risk-based approach, which has provided cost savings of 10 to 40 percent. Although Missouri has made some efforts to consider a risk-based approach, these efforts have not been extensive enough. Since the potential savings could be significant, the Board and the Department of Natural Resources (DNR) need to expedite efforts to adopt a risk-based approach.

The DNR has been working on a revision to the current cleanup standards for soil for over a year. Section 319.109, RSMo 2000, requires the state to use a risk-based approach to corrective standards for cleanup of contamination. In 1999, the legislature directed the DNR to issue state regulations to establish a risk-based approach to groundwater cleanup. Although the DNR has worked on these regulations, they have not been finalized and adopted.

With the expectation that cleanup of all contaminated sites is not possible given the limited availability of financial resources, the Board should adopt a risk-based approach to provide funding to those sites with the greatest environmental impact.

- **Seek legislation to increase the transport load fee**

The transport load fee of \$25 per 8,000 gallons is the primary revenue source and is a fee assessed on each load of petroleum transported in Missouri. Although Missouri does not assess the lowest fee, the transport load fee ranges up to \$120 in some other states. An increase in the transport load fee would allow the cleanup of more sites before the December 31, 2003 expiration date.

- **Seek legislation to increase the insurance participation fees**

Participants in the insurance program pay an annual insurance participation fee of \$100 to \$200 per storage tank. The participation fee provides insurance coverage to the participant in the event of a petroleum spill or leak. The average estimated cost of a

contamination cleanup is \$60,000. The Board could compare the insurance participation fee to insurance premiums available in the market and raise the insurance participation fee accordingly to increase revenues and to encourage participants to obtain insurance with private insurance carriers.

- **Increase the deductible amount**

Currently, the PSTIF imposes a \$10,000 deductible with the PSTIF paying additional eligible costs up to \$1,000,000 per incident. Since cleanup improves a site's property value, owners have a significant interest in the amount of cleanup, but limited interest in controlling the costs of the cleanup. Some states create financial incentives for owners to control costs by applying a percentage deductible to the full cost of cleanup and increasing the proportion of costs for which owners are responsible as costs increase. As of August 2000, the PSTIF had 1,882 claims totaling \$128,260,000 not including the deductible. Including the deductible of \$18,820,000 would increase the total cleanup costs to \$147,080,000. We estimated that if Missouri would change its program so that owners pay 25% of the first \$100,000, 20% of the next \$400,000, and 10% of costs over \$500,000 the PSTIF would have saved over \$15.5 million as the owner's share would be \$34,357,000 instead of \$18,820,000. Changing the deductible from \$10,000 to a higher amount or as a percentage of costs with different percentages as costs increase could improve the PSTIF's financial condition.

- **Reduce the liability limit of \$1,000,000**

A tank owner pays \$100 to \$200 per tank and only has a \$10,000 deductible to obtain \$1,000,000 coverage. Thus, the PSTIF is incurring a large liability and expense while revenues for this coverage is minimal. The PSTIF had 16 claims exceeding \$500,000 which totaled \$11,469,521. Our review indicated that if the maximum liability limit was \$500,000 the 16 claims would have totaled \$8,000,000 resulting in a savings to the PSTIF of over \$3.4 million. The PSTIF had 37 claims exceeding \$350,000 which totaled \$19,809,525. Our review indicated that if the maximum liability limit was \$350,000 the 37 claims would have totaled \$12,950,000 resulting in a saving to the PSTIF of over \$6.8 million. We noted one state reduced the liability limit at different dates during the program. Reducing the liability limit encourages owners to get the cleanup done quickly so the tank owners would obtain more reimbursement and was a method to help phase out the program.

- **Require tanks that meet the 1998 tank requirements to obtain insurance through insurance carriers**

Currently, the PSTIF is providing the insurance coverage for about 65% of the underground storage tanks. When the program ends on December 31, 2003, tank owners will need to obtain insurance through private insurance carriers. The Board may want to guide tank owners that meet the 1998 tank requirements towards obtaining insurance through private insurance carriers versus providing the coverage. It should be noted the

advisory committee for the PSTIF did not report to the General Assembly on the private insurance market for tanks as required by law. The PSTIF indicated a report was not presented because the information had not changed from the March 1999 report presented to the General Assembly.

Section 319.131.2, RSMo 2000, requires the advisory committee to report annually to the general assembly on the availability and affordability of the private insurance market as a viable method of meeting the financial responsibilities required by state and federal law in lieu of the PSTIF.

Although the Board has considered some of these alternatives, significant changes have not been made. Since financial projections indicate fund resources will not be sufficient to cleanup all contamination, it is imperative that the Board implement program changes as soon as possible.

WE RECOMMEND the PSTIF Board:

- A. Implement program changes that will ensure Missourians are provided with the greatest benefit possible from petroleum contamination cleanup.
- B. Present an annual report to the general assembly as required by law.

AUDITEE'S RESPONSE

- A. *In March 2000, the Board recognized the impending insolvency of the Fund and, as noted in the audit report, took actions to delay additional funding commitments to new remedial claims. All of the alternatives outlined in the audit report were reviewed and discussed during public meetings of the PSTIF Advisory Committee held in the summer and fall of 2000. The results of those discussions were presented by the Advisory Committee to the Board of Trustees at its meeting on November 15, 2000; that report included a recommended solution, which follows:*

Recommended Legislative Solution

- 1. *The Petroleum Storage Tank Insurance Fund (PSTIF) Board of Trustees should be given authority to raise and/or lower transport load fee as needed to finance PSTIF's obligations, subject to the following limitations:*
 - *Maximum allowable fee is \$60 per transport load (8,000 gallons);*
 - *If the Fund's cash balance on the first day of any month exceeds the sum of its liabilities plus ten percent, the transport load fee automatically reverts to \$25 per transport load on the first day of the second month following this event;*

- *A cap of \$100 million remains in statute (i.e., collection of transport load fee ceases if Fund balance reaches \$100 million);*
 - *PSTIF Board of Trustees can only raise or lower the fee after giving at least 60 days' notice to all fee payers of its intention to do so, and must coordinate its actions with Department of Revenue to allow adequate time for implementation of any changes;*
 - *Language is added to the statute limiting any additional expenditures from the Fund for regulatory or other activities which are not directly related to the purposes of the Fund, and which are conducted without a contractual agreement between the Board and the party spending the money.*
2. *PSTIF Board of Trustees should be given explicit authority in the statute to prioritize claims, in consultation with the Department of Natural Resources (as it has already done by putting new remedial claims "on hold").*
 3. *Sunset date should be extended to December 31, 2010, with the Board given explicit authority to continue in existence beyond that date, to carry out activities as needed, and to pay out funds as needed to complete cleanups and finalize processing of all claims received by that date. (This means UST and AST owners could continue buying insurance from PSTIF until December 31, 2010.)*

The Board of Trustees endorsed the Committee's recommendation and as a result, two bills have been introduced in the legislature - HB327 and SB310. As of this writing, both bills have had a committee hearing, and HJB327 has passed the House of Representatives.

Ultimately, the Missouri General Assembly will decide whether to implement any plan to address the projected insolvency of the Fund. If no plan is implemented, the Board of Trustees will continue to administer available funds until the program ends on December 31, 2003. Unfunded liabilities will simply remain unfunded; under current law, they are not liabilities of the state's general revenue.

An additional comment is warranted regarding the first alternative suggested by the State Auditor - that of implementing a risk-based approach to cleaning up contaminated sites. While the Board of Trustees has authority to postpone funding for low-priority cleanups, it has no authority to establish the cleanup standards for any site. This authority rests with the Department of Natural Resources. At its meeting in January 2001, the Board discussed the importance of risk-based decision-making and its potential for substantially reducing the Fund's cleanup costs. The legislature has directed the Department of Natural Resources to use a risk-based approach in reviewing cleanup plans for contaminated tank sites, and the Board passed a motion requesting its Executive Director and staff of the Department of Natural Resources to report back to the Board with a specific plan for addressing this issue. It is anticipated this plan will be received by the Board of Trustees no later than September 2001.

- B. *The Board of Trustees is aware of the statutory requirement that the Advisory Committee provide an annual report to the General Assembly. The Advisory Committee has no staff, and the Board has very limited staff; this activity was simply not given priority attention during the last year.*

This annual reporting requirement was originally set out in state law when the primary purpose of the program was to provide the required “financial responsibility mechanism” for underground storage tank (UST) owners. With the changes made by the Legislature in 1995 and 1996, the need to annually re-evaluate the private insurance market was reduced. Simply put, regardless of the availability of private insurance for underground tank owners, there is little or no support for terminating the UST insurance benefit until such time as the transport load fee is eliminated. And the transport load fee cannot be eliminated unless or until the General Assembly decides to eliminate the remedial claims program, or the program reaches its sunset date.

Nevertheless, the Board concurs that such a report should be provided annually or as often as staffing levels allow, and will direct its Advisory Committee to provide such a report by March 2002.

2.

Claim Reserves

The PSTIF’s Third Party Administrator (TPA) does not perform timely reviews of claim reserve amounts. The claim reserve amount is an estimate of the total cost of the contamination cleanup less the \$10,000 deductible. The TPA adjusts the claim reserve amount as the TPA obtains better information to more accurately estimate the cleanup costs.

We compared the listing of claim reserve amounts at August 17, 2000, to the listing of claim reserve amounts at June 30, 1998. We noted 387 claims (36 percent) that had the same claim reserve amount for both listings out of the 1,071 claims that were included on both listings. We selected 60 of these 387 claims and reviewed the file maintained by the TPA to determine the status of the claim.

Documentation was not sufficient to indicate that cleanup procedures were being actively pursued for 18 of the 60 (30 percent) claims reviewed. For some claims, the most recent documentation in the file was a letter to the owner requesting an update of cleanup procedures because no claim activity had been reported for an extended period of time. One of these letters indicated there had been no claim activity since June 1995. For some claims, the most recent documentation was either a copy of a letter sent by the Department of Natural Resources (DNR) to the owner or a notation made in the claim file indicating that a request had been made for either contamination cleanup information or additional site testing work was needed before any further claim activity could occur. For one claim, requests for additional testing have been made since 1992. For some claims, we noted the DNR had issued letters (dated in 1998 or 1997) indicating no further action was required; however, requests for reimbursement have not been submitted for the claims to be paid and the file

closed. The total claim reserve amounts associated with the above mentioned claim files totaled over \$740,000. Although letters were sent requesting information, no other action was taken to resolve the claim if no information was obtained.

The PSTIF Board considers the total of claim reserves when determining if new claims will be accepted and processed. If the claim reserves are not adjusted to reflect the current status of cleanup activities, future claims may be denied when adequate resources are actually available to pay for the cleanup of the contamination.

Follow-up procedures need to be conducted on claim files with no activity over an extended period. A review of these claim files should be performed to determine the current status of the claim. This review would include determining when cleanup of the site will be performed or finalized, whether the claim should be closed, and to adjust the claim liability amount due to information obtained in this review.

WE RECOMMEND the PSTIF Board conduct timely review of claim activity to ensure claim files and related reserves are accurate and up to date.

AUDITEE'S RESPONSE

The audit report seems to imply that the PSTIF Board of Trustees, its staff and its third-party administrator should take the initiative to compel action to clean up sites if the property owner does not proceed in a timely manner. The PSTIF Board wishes to make it clear that it has no authority to do this. Authority to compel action, to establish deadlines for that action, rests solely with the Department of Natural Resources. Nevertheless, the Board of Trustees concurs that actions to mitigate risks to the public health or address environmental damages should be undertaken by property owners in a timely fashion, and has brought this finding to the attention of the department.

Given the tenuous financial condition of the PSTIF, it may not be financially advantageous for the Board to take any action to accelerate the filing of requests for funds, or the disbursement of monies. However, there are some instances where the Fund participant or beneficiary has failed to submit invoices within a reasonable time after the work at a site is done; the Board has asked the Attorney General's Office to advise whether it has legal authority to impose a deadline for invoice submission. The Board expects a response from the Attorney General's Office by July 2001, and will then decide whether to impose such a deadline.

Though the majority of claim files reviewed by the Auditor indicated timely and regular review by the third-party administrator, the Board has nevertheless asked its TPA to clarify its procedures for regular review of reserves to assure that timely adjustments are made. The response from the TPA is as follows:

The Missouri State Auditor has commented that the individual claim reserves need to be reviewed more frequently. Williams & Company Consulting's procedures require the review of reserves each time a file is handled. For example, reserves are reviewed at the following stages: 1) opening the

claim, 2) cost approval, 3) each field report, and 4) invoice review. Therefore, during the life of a claim the reserves are reviewed at each activity stage.

The reality revealed by the State Auditor is that if there is no activity on a site the reserves will not be reviewed regularly. This past fall, November 2000, Williams & Company Consulting implemented a practice to have each claim reviewed on a periodic basis regardless of whether or not there is activity on the site. Following our discussion on Thursday, February 22, 2001, we have determined that a review of each claim every six months is sufficient to properly maintain individual claim reserves.

Please also note that upon receipt of the list of claims with unchanged reserves, Williams & Company Consulting reviewed approximately thirty of the files. The PSTIF files contained very little information on the claims so we also reviewed the DNR files on the sites. Of the thirty files reviewed six no longer were on DNR's "R" release list and we were able to close five of the six. The approximately twenty-four remaining DNR files contained insufficient information to impact the reserves and thus the reserves could not be changed. We found one out of the approximately thirty claims where there was sufficient information in the DNR files to support a change in the reserves.

It is Williams & Company Consulting's position that although the reserves have not changed on this list of claims provided by the auditor, the reserves are set on each claim at a responsible and appropriate level. Until such time as additional information on the extent of the release and the corrective action necessary to remediate the site is provided by the site owner and his consultant the reserves cannot responsibly be changed. The scheduled semiannual review of inactive claims will reveal information not directly received by PSTIF and will enhance maintenance of proper reserves.

3.

Administrative Costs

The purpose of the PSTIF is to pay for the cleanup of contamination caused by petroleum spills. There are various administrative costs involved in carrying out these duties. However, administrative costs may be excessive as shown in the following summary.

(Amounts in thousands)	Fiscal year ended June 30,					6 months ended December 31, 2003	Total
	1999	2000	2001	2002	2003	Estimate	
			Estimate	Estimate	Estimate	Estimate	
Total costs (including claims)	\$ 17,482	27,458	25,486	25,616	24,963	10,869	131,874
Administrative costs:							
Third party administrator	1,934	2,277	2,365	2,365	2,365	1,182	12,488
Department of Natural Resources	1,889	1,938	2,121	2,185	2,251	1,159	11,543
PSTIF Board	146	158	200	206	212	109	1,031
Department of Revenue	27	28	29	30	31	16	161
Attorney General	21	27	28	29	29	15	149
Legal expenses	23	10	25	26	27	14	125
Other professional expenses	0	43	129	133	137	71	513
Total administrative costs	\$ 4,040	4,481	4,897	4,974	5,052	2,566	26,010
Percentage of administrative costs to total costs	23.1%	16.3%	19.2%	19.4%	20.2%	23.6%	19.7%

State law specifies that the PSTIF will expire on December 31, 2003. The board prepared estimates of costs through December 31, 2003, to determine the solvency of the fund.

Administrative costs of nearly 20 percent or more may be excessive when compared with other states that have similar programs.

WE RECOMMEND the PSTIF Board review the various administrative costs and lower them to a more reasonable level.

AUDITEE'S RESPONSE

One of the goals of the Board of Trustees, since its formation in April 1997, has been to reduce and control administrative costs. As evidence of its success in this endeavor, the following historical data is provided:

(In thousands \$)	FY96	FY97	FY98	FY99	FY00
Total Costs (including claims)	2,108	4152	8,726	17,482	27,458
Administrative Costs	1,472	2295	3,645	4,040	4,481
Percentage (Admin. Costs to Total Costs)	69.80%	55.30%	41.80%	23.10%	16.30%

It should be noted that the projections appearing in the Auditor's Report reflect artificially depressed claims costs, as a result of the "moratorium" imposed by the Board in March 2000. If additional funding for the program is provided by the legislature, claims costs in future years will be higher. While there will be some increase in claims processing costs associated with this increase in claims activity, other administrative costs will remain unchanged, which means overall administrative costs will remain in the 16% - 18% range.

This report is intended for the information of the management of the Petroleum Storage Tank Insurance Fund and other applicable government officials. However, this report is a matter of public record and its distribution is not limited.

STATISTICAL SECTION

History, Organization, and
Statistical Information

PETROLEUM STORAGE TANK INSURANCE FUND HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

The Petroleum Storage Tank Insurance Fund (PSTIF) was first established by the Missouri General Assembly in 1989, in response to federal legislation requiring owners and operators of underground storage tanks (USTs) to have financial resources available to pay for cleanup of leaks and/or spills from their tanks. Originally called the Underground Storage Tank Insurance Fund, it began insuring owners and operators of such tanks in May 1992. Since then, the PSTIF has insured more than 3,200 USTs sites and 10,000 tanks. Coverage is provided for the costs of cleaning up a leak or spill, as well as third-party property damage or bodily injury resulting from leaks or spills. A \$10,000 deductible applies to each incident, with a policy limit of \$1 million per incident and \$2 million annual aggregate.

In 1995, the Missouri Legislature expanded the responsibilities of the PSTIF to include cleanup of sites where USTs had been closed and to pay the ongoing costs of cleanup at insured sites where a leak/spill had occurred before the owner was insured by the PSTIF. In 1996, the PSTIF responsibilities were expanded to offer insurance coverage to aboveground storage tanks (ASTs) owners/operators and to pay for cleanup of sites where ASTs had previously operated.

The PSTIF is primarily financed with a fee assessed on each load of petroleum brought into Missouri. Annual participation fees are also charged for insurance coverage. The PSTIF Board contracts with a private company to provide Third Party Administration services. These services include receiving and processing applications for insurance coverage, sending renewal services, receiving and processing claims, and other accounting and record keeping services.

The PSTIF Board was established by Section 319.129.4, RSMo 2000, to provide the general administration and the responsibility for the proper operation of the PSTIF including all decisions relating to payments from the PSTIF. The Board has eleven members. Eight members are appointed by the Governor with the advice and consent of the Senate. The other three members are designated officials from executive branch agencies. Members serving on the Board as of June 30, 2000 were:

<u>Members</u>	<u>City</u>	<u>Term Expires</u>
William H. Creech III, Chairman	Troy	February 2004
Robert L. Abernathy, Vice Chairman	Clinton	February 2001
James P. Ford	Columbia	February 2004
Judith W. Baker	Columbia	February 2003
Neal A. Gibbons, Sr.	Kennett	February 2003
Gary D. Collins	Jefferson City	February 2002
Robert (Bob) Jackson	Kansas City	February 2002
Sam K. Carter	Kansas City	February 2001
John Boehm (Office of Administration)		
Ron Hooker (Department of Agriculture)		
Stephen Mahfood (Department of Natural Resources)		

The Board works to ensure monies are effectively used to clean up the environment; that participants receive timely professional services; and resources are economically used to benefit the maximum number of Missourians.

The Board may appoint an executive director to perform administrative duties. Carol R. Eighmey was appointed Executive Director on August 15, 1997. One other employee performs various administrative and clerical tasks.

State law specifies that the PSTIF will expire on December 31, 2003.

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